



JTW

Docket No.: M1885.0022/P022-B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Carlo Dall'Aglio et al.

Confirmation No.: 8044

Serial No.: 09/875,137

Group Art Unit: 2841

Filed: June 7, 2001

Examiner: Randy W. Gibson

For: APPARATUS FOR CHECKING
DIAMETRAL DIMENSIONS OF
CYLINDRICAL PARTS ROTATING
WITH AN ORBITAL MOTION

SUGGESTION OF INTERFERENCE (37 C.F.R. § 41.202)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Preliminary to examination, and pursuant to 37 C.F.R. § 41.202(a) and M.P.E.P. § 2304.02 *et seq.*, Applicants hereby suggest an interference with U.S. Patent No. 6,088,924 (the Esteve patent). A Request for Interference, concerning the Esteve patent, was timely filed in the present application on June 7, 2001. The requirements of § 41.202(a) for suggesting an interference are reproduced below (in italics), followed in each case by Applicants' response.

§ 41.202(a)(1): “Provide sufficient information to identify the application or patent with which the applicant seeks an interference.”

Applicants seek an interference with U.S. Patent No. 6,088,924 (the Esteve patent), issued July 18, 2000. The Esteve patent is listed in the Information Disclosure Statement that was filed in the present application on June 7, 2001.

§ 41.202(a)(2): “Identify all claims the applicant believes interfere, propose one or more counts, and show how the claims correspond to one or more counts.”

Applicants believe claims 1 and 12 of the Esteve patent interfere with at least claims 25 and 26 of the present application. Claims 25 and 26 of the present application were copied essentially word-for-word from claims 1 and 12 of the Esteve patent on June 7, 2001, as explained in the June 7, 2001 Request for Interference.

In the Request for Interference, Applicants proposed two counts, as follows:

Count 1. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage, said carriage being movable in a transverse direction relative to said axis and said device having a measurement head coupled to a support, said support being provided with a member for contacting the periphery of said piece and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece wherein said frame is secured to said carriage.

Count 2. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage, said carriage being movable in a transverse direction relative to said axis and said device having a measurement head coupled to a support, said support being provided with a member for

contacting the periphery of said piece and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece wherein said frame is secured to said carriage, and wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.

Claims 1 and 12 of the Esteve patent correspond exactly to proposed counts 1 and 2, respectively. Likewise, claims 25 and 26 of the present application correspond exactly to proposed counts 1 and 2, respectively.

§ 41.202(a)(3): “For each count, provide a claim chart comparing at least one claim of each party corresponding to the count and show why the claims interfere within the meaning of 37 C.F.R. § 41.203(a).”

The claim charts provided below compare claims 1 and 12 of the Esteve patent and claims 25 and 26 of the present application to the proposed counts (the claims and the proposed counts are essentially word-for-word the same).

Count 1 Claim Chart		
Application Claim 25	Count 1	Esteve Claim 1
25. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage,	Count 1. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage,	1. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage,

said carriage being movable in a transverse direction relative to said axis and said device having a measurement head coupled to a support,	said carriage being movable in a transverse direction relative to said axis and said device having a measurement head coupled to a support,	said carriage being movable in a transverse direction relative to said axis and said device having a measurement head coupled to a support,
said support being provided with a member for contacting the periphery of said piece and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece wherein said frame is secured to said carriage.	said support being provided with a member for contacting the periphery of said piece and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece wherein said frame is secured to said carriage.	said support being provided with a member for contacting the periphery of said piece and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece wherein said frame is secured to said carriage.

Count 2 Claim Chart		
Application Claim 26	Count 2	Esteve Claim 12
26. The device of claim 25, wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.	Count 2. [The device of count 1,] and wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.	12. The device of claim 1, wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.

Under § 41.203(a), an interference exists “if the subject matter of a claim of one party would, if prior art, have anticipated or rendered obvious the subject matter of a claim of the opposing party and vice versa.” Claims 25 and 26 of the present application would, if prior art, have anticipated or rendered obvious the subject matter of claims 1 and 12 of the Esteve patent,

respectively, and vice versa, because the claims contain identical limitations and, therefore, read verbatim on one another.

§ 41.202(a)(4): “*Explain in detail why the applicant will prevail on priority.*”

The present application claims the benefit of the September 23, 1996 international filing date of International Application PCT/EP96/04147. The present application is a continuation of U.S. Application No. 09/533,784, filed March 24, 2000, now U.S. Patent No. 6,298,571, which is a continuation of U.S. Application No. 09/011,928, which is the U.S. national stage of International Application PCT/EP96/04147 (“the PCT/’928 application”), now U.S. Patent No. 6,067,721. In addition, the present application claims priority to the October 3, 1995 filing date of Italian Application B095A000469. The priority document was timely filed with the International Bureau, as evidenced by the Form PCT/IB/304 of record in the PCT/’928 application. A certified English-language translation of the priority document is being filed concurrently herewith.

The disclosures of the continuation applications (the present application and the ‘784 application) are essentially identical to the disclosure of the PCT/’928 application. Therefore, Applicants have constructive reductions to practice in the PCT/’928 application (filed September 23, 1996) and the Italian application (filed October 3, 1995) (the support in the written descriptions is discussed in more detail below).

The Esteve patent is the national stage of International Application PCT/FR96/01545. The international filing date of the Esteve patent is October 3, 1996. (There is a certificate of correction in the Esteve patent.) The Esteve patent claims priority to the June 17, 1996 and October 6, 1995 filing dates of two French applications. There does not appear to be any translation of either of the French applications of record in the Esteve patent.

Thus, Applicants should prevail on priority because Applicants' constructive reductions to practice (October 3, 1995 and September 23, 1996) are both earlier than the international filing date of the Esteve patent (October 3, 1996). Even if the Esteve patent is somehow accorded the benefit of its earliest foreign priority date (October 6, 1995), Applicants should still prevail because Applicants have the earlier constructive reduction to practice (the October 3, 1995 filing date of the Italian application).

§ 41.202(a)(5) "If a claim has been added or amended to provoke an interference, provide a claim chart showing the written description for each claim in the applicant's specification."

Claims 25 and 26 were added to the application on June 7, 2001, to provoke an interference with the Esteve patent. In the same paper, Applicants provided charts which show the written description for each claim in the specification of the application. Those charts are reproduced below.

Claim 25	Application
25. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis	The present application refers to an apparatus for checking the diameter of a cylindrical crankpin 18 in orbital motion 25 about a crankshaft axis 8. The apparatus monitors the crankpin diameter "in the course of the machining" of the crankshaft 34 (abstract, lines 1-3).

during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage,	The disclosed apparatus monitors the crankpin diameter while the crankpin 18 is being ground (abstract) by the edge of a grinding wheel 4 (Fig. 5). The grinding wheel 4 is a disk-shaped tool, as shown in Figs. 1 and 5. The tool 4 is rotatable about an axis 3. The grinding wheel 4 is mounted on a movable carriage 1.
said carriage being movable in a transverse direction relative to said axis and	The carriage 1 is movable back and forth in a transverse direction (page 7, lines 36+). The direction of movement is transverse to the crankshaft axis 8.
said device having a measurement head coupled to a support,	A cartridge head 41 (Fig. 6) is used, together with a transmission rod 16 and a feeler 17, to measure the crankpin diameter (page 11, lines 7+). The head 41 is coupled to and supported by a rotatable support 12, 13, 15, 19, 20.
said support being provided with a member for contacting the periphery of said piece	The support 12, 13, 15, 19, 20 has a reference member 20 that contacts (54, 55) the periphery of the cylindrical crankpin 18.
and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece	The support is movably mounted (11, 7) relative to a frame 5 to follow, by gravity, the orbital motion 25 of the cylindrical crankpin 18 (page 9, lines 31+), which is a piece of the crankshaft.
wherein said frame is secured to said carriage.	The frame 5 is secured to the movable carriage 1 (page 7, lines 36+).

Claim 26	Application
26. The device of claim 25, wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.	In the disclosed apparatus, the measurement head 41 is mounted on the rotatable support 12, 13, 15, 19, 20. The head pivots (11, 7) between a checking/active position (Figs. 1 and 2) and a disengaged position (Fig. 4).

§ 41.202(a)(6): “For each constructive reduction to practice for which the applicant wishes to be accorded benefit, provide a chart showing where the disclosure provides a constructive reduction to practice within the scope of the interfering subject matter.”

As discussed above, Applicants have constructive reductions to practice in the PCT/‘928 application (filed September 23, 1996) and the Italian application (filed October 3, 1995). The charts below show where the disclosures of the PCT/‘928 and Italian applications provide constructive reductions to practice within the scope of the interfering subject matter. The disclosure of the PCT/‘928 application is essentially the same as that of the present application. References in the following charts to pages/lines of the Italian application are to the certified translation of the Italian application.

Count 1	PCT/‘928 Application
Count 1. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis	The PCT/‘928 application refers to an apparatus for checking the diameter of a cylindrical crankpin 18 in orbital motion 25 about a crankshaft axis 8. The apparatus monitors the crankpin diameter “in the course of the machining” of the crankshaft 34 (abstract, lines 1-3).
during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage,	The disclosed apparatus monitors the crankpin diameter while the crankpin 18 is being ground (abstract) by the edge of a grinding wheel 4 (Fig. 5). The grinding wheel 4 is a disk-shaped tool, as shown in Figs. 1 and 5. The tool 4 is rotatable about an axis 3. The grinding wheel 4 is mounted on a movable carriage 1.
said carriage being movable in a transverse direction relative to said axis and	The carriage 1 is movable back and forth in a transverse direction (page 7, lines 36+). The direction of movement is transverse to the crankshaft axis 8.

said device having a measurement head coupled to a support,	A cartridge head 41 (Fig. 6) is used, together with a transmission rod 16 and a feeler 17, to measure the crankpin diameter (page 11, lines 7+). The head 41 is coupled to and supported by a rotatable support 12, 13, 15, 19, 20.
said support being provided with a member for contacting the periphery of said piece	The support 12, 13, 15, 19, 20 has a reference member 20 that contacts (54, 55) the periphery of the cylindrical crankpin 18.
and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece	The support is movably mounted (11, 7) relative to a frame 5 to follow, by gravity, the orbital motion 25 of the cylindrical crankpin 18 (page 9, lines 31+), which is a piece of the crankshaft.
wherein said frame is secured to said carriage.	The frame 5 is secured to the movable carriage 1 (page 7, lines 36+).

Count 2	PCT/'928 Application
Count 2. [The device of count 1,] and wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.	In the disclosed apparatus, the measurement head 41 is mounted on the rotatable support 12, 13, 15, 19, 20. The head pivots (11, 7) between a checking/active position (Figs. 1 and 2) and a disengaged position (Fig. 4).

Count 1	Italian Application
Count 1. A device for monitoring the diameter of a cylindrical piece in orbital motion about an axis	The Italian application refers to an apparatus for checking the diameter of a cylindrical crankpin 18 in orbital motion 25 about a crankshaft axis 8. The apparatus monitors the crankpin diameter "in the course of the machining" of the crankshaft 34 (abstract, lines 1-3).

during a grinding thereof by an edge of a rotatable disk-shaped tool mounted on a carriage,	The disclosed apparatus monitors the crankpin diameter while the crankpin 18 is being ground (abstract) by the edge of a grinding wheel 4 (Fig. 5). The grinding wheel 4 is a disk-shaped tool, as shown in Figs. 1 and 5. The tool 4 is rotatable about an axis 3. The grinding wheel 4 is mounted on a movable carriage 1.
said carriage being movable in a transverse direction relative to said axis and	The carriage 1 is movable back and forth in a transverse direction (page 9, lines 13+). The direction of movement is transverse to the crankshaft axis 8.
said device having a measurement head coupled to a support,	A cartridge head 41 (Fig. 6) is used, together with a transmission rod 16 and a feeler 17, to measure the crankpin diameter (page 12, lines 20+). The head 41 is coupled to and supported by a rotatable support 12, 13, 15, 19, 20.
said support being provided with a member for contacting the periphery of said piece	The support 12, 13, 15, 19, 20 has a reference member 20 that contacts (54, 55) the periphery of the cylindrical crankpin 18.
and being movably mounted relative to a frame in order to follow the orbital motion of said cylindrical piece	The support is movably mounted (11, 7) relative to a frame 5 to follow, by gravity, the orbital motion 25 of the cylindrical crankpin 18 (page 11, lines 14+), which is a piece of the crankshaft.
wherein said frame is secured to said carriage.	The frame 5 is secured to the movable carriage 1 (page 9, lines 13+).

Count 2	Italian Application
Count 2. [The device of count 1,] and wherein said measurement head is pivotally mounted on said support to pivot between an active position and a disengaged position.	In the disclosed apparatus, the measurement head 41 is mounted on the rotatable support 12, 13, 15, 19, 20. The head pivots (11, 7) between a checking/active position (Figs. 1 and 2) and a disengaged position (Fig. 4).

Favorable action on the present application is solicited. Please charge any fees due in connection with this paper to Deposit Account No. 04-1073.

Dated: February 28, 2008

Respectfully submitted,

By 
Mark J. Thronson

Registration No.: 33,082
Peter A. Veytsman
Registration No.: 45,920
DICKSTEIN SHAPIRO LLP
1825 Eye Street
Washington, DC 20006-5403
202-420-2200



Docket No.: M1885.0022/P022-B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Carlo Dall'Aglio et al.

Confirmation No.: 8044

Serial No.: 09/875,137

Group Art Unit: 2841

Filed: June 7, 2001

Examiner: Randy W. Gibson

For: APPARATUS FOR CHECKING
DIAMETRAL DIMENSIONS OF
CYLINDRICAL PARTS ROTATING
WITH AN ORBITAL MOTION

SUBMISSION OF TRANSLATION OF FOREIGN BENEFIT APPLICATION
(MPEP 2304.01(c))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to MPEP 2304.01(c), Applicants submit herewith an English-language translation of Italian foreign benefit application number BO95A000469, filed on October 3, 1995. Also enclosed is a declaration of Lucio Tamburini, attesting to the accuracy of the translation. This submission accompanies a Suggestion of Interference (37 C.F.R. § 41.202) being filed concurrently herewith.

Favorable action on the present application is solicited.

Dated: February 28, 2008

Respectfully submitted,

By  #33,082

Mark J. Thronson

Registration No.: 33,082

Peter A. Veytsman

Registration No.: 45,920

DICKSTEIN SHAPIRO LLP

1825 Eye Street

Washington, DC 20006-5403

202-420-2200